

Appl. No. 10/767,599
Amtd. dated Aug 23, 2005
Reply to Office action of July 5, 2005

REMARKS/ARGUMENTS

Claim 1 was modified as shown below.

Claim 1 (Amended): A picture frame with integrated power control and lighting comprising:

 a frame structure capable of retaining a replaceable image,
 at least one power storage device located within the frame structure,
 a variable power control device located within the frame structure,
 at least one light source located in front of the image located within the
 frame structure, and
 an electrical connection located within the frame structure that connects
 the variable power control mechanism and the light source to vary
 that varies the intensity of the light source to supplement the
 ambient light.

These changes require that the power control device is a variable power control device that allows the light source that varies the intensity of the light source to supplement the ambient light.

These changes are supported in the specifications with light sensor item 30 that is a cadmium cell that allows the intensity of the light source to be variable to supplement the ambient light. The power control device, item 19, disclosed in patent 5,313,724 is a binary switch that is either on or off and does not provide for the intensity of the light to be varied.

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Claim 8 was modified as shown below.

Claim 8 (Amended): A picture frame with integrated lighting comprising;
a frame structure capable of retaining a replaceable image,
a power source located external to the frame structure,
at least one light source located within the frame structure and in front
of the image such that the illumination from the light shines on the
front of the replaceable image, and
an electrical connection located within the frame structure that connects
the power source to the light source wherein the intensity of the
light source is at least partially controlled by the intensity of the
light external to the picture frame to supplement the ambient light.

These changes require that the intensity of the light source is at least
partially controlled by the intensity of the light external to the picture frame to
supplement the ambient light

These changes are supported in the specifications with light sensor item
30 that is a cadmium cell that allows the intensity of the light source to be
variable to supplement the ambient light. Intensity of the light disclosed in patent
5,313,724 is from a binary switch that is turned either on or off based upon the
setting of the binary switch.

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Obviousness (35 USC § 103)

The Office considers claims 1-9, 12-22 are rejected under 35 U.S.C. 103 as being unpatentable over Warner(US 5,313,724) in view of Smallegan (US 3,968,355). The applicant disagrees based upon the changes made to claims 1 and 8 and 2-7, 9, 11-14 and 22 by virtue of their dependence on independent claims 1, 8.

In Smallegan col 1 lines 52-53 the light-sensing device controls a solid-state switching means. Emphasis added. The purpose of the Smallegan patent is to provide light at night when there is no light. While there may be a tendency for the output intensity of the light to modulate based upon the intensity of light within the room, with the maximum intensity occurring when the room light is at it's darkest (col 2 lines 37-38). Most pictures are not viewed in dark rooms, rooms or without some form of lighting also being on. The lighting from the proposed invention is to supplement the room lighting that is blocked by the frame, and not to provide a nightlight.

Warner utilizes a two-position switch because the lights used for illumination are disclosed as, cylindrical illumination bulbs (fluorescent) that are either on or off that cannot be operated with a variable intensity. The illumination source described in Smallegan is an incandescent bulb. Incandescent bulbs inherently produce large amounts of heat that can cause damage to artwork and or the frame. Combining the light sensor from Smallegan into the frame with the lighting source disclosed by Warner would only produce an on or off condition for the lighting, and the limitation of the variable light intensity that exists in claims 1 and 8 would not function. If the variable illumination sensor and incandescent lighting elements from Smallegan were combined into the frame structure

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disclosed by Warner extreme heating would occur that would cause damage to the frame, artwork and possibly be a fire hazard.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. (emphasis added)

Based upon the incompatibility of combining the Warner and Smallegan patents, there is no explicit or implicit motivation to combine the two patents, and the combination would not provide the benefit as disclosed in claims 1 and 8 to supplement the light.

Since combining a variable light sensor with the fluorescent lighting elements used in Warner would only produce an on or off condition for the light without any variability for illumination between the on or off condition. Since combining these two patents would provide the variable light intensity benefit as required by claims 1, 8 there is no motivation to combine the patents, and if the patents were combined the limitation from claims 1 and 8 would not be satisfied.

For the rejection of claim 15 of the pending application the examiner cites the use of solar charge as a power source to charge, the batteries stating

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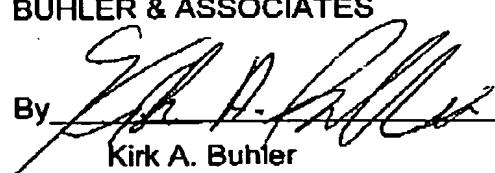
"...would be useful if the viewer is in a remote location, such as while camping." The applicant agrees that one form of charging batteries is with solar power, but the examiner has not cited a reason why one would be motivated to take the Warner patent (US 5,313,724) and combine it with a solar charging system to illuminate artwork. Warner solves the problem of charging the batteries by providing a power adapter connection to charge the batteries so there is no motivation or need for solar charging in the Warner patent. If a camper brings along pictures that require illumination on a camping trip, they probably also bring a gas generator. The purpose of using the solar charging system in the proposed application is to remove the need to run electrical power to each frame.

Claims 2-7, 9, 11-14, and 22 are not obvious based upon the changes made to claims 1, 8 and by virtue of their dependence on independent claims 1 and 8. Claims 16-20 are not obvious based upon the lack of motivation to combine a picture frame with solar charging by independent claim 15.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,
BUHLER & ASSOCIATES

By



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